

This is an amendment to 16.22.2 NMAC, Sections 8 and 19, effective 1/08/2023.

16.22.2.8 RULES OF COMPETENCE:

A. Limits on practice. The psychologist shall limit practice and supervision to the areas of competence in which proficiency has been gained through education, training, and experience.

B. Maintaining competency. The psychologist shall maintain current competency in the areas in which he practices, through continuing professional education, consultation, and/or other procedures, in conformance with current standards of scientific and professional knowledge.

C. Cultural competency. Psychologists with restricted and unrestricted licenses and psychologist associates shall complete eight hours of cultural competence coursework promulgated by the board during the first year of licensure; and also shall take four additional hours in cultural competence, as deemed satisfactory to the board, every two years as detailed in 16.22.9 NMAC.

D. Adding new services and techniques. The psychologist, when developing competency in a service or technique that is either new to the psychologist or new to the profession, shall engage in ongoing consultation with other psychologists or relevant professionals, and shall seek appropriate education and training in the new area. The psychologist shall inform clients or patients of the innovative nature and the known risks and benefits associated with the services, so that the client or patient can exercise freedom of choice concerning such services.

E. Referral. The psychologist shall make or recommend referral to professional, technical, or administrative, or public resources when such referral is clearly in the best interest of the clients or patient(s).

F. Bases for Assessments. Psychologists base the opinions contained in their recommendations, reports and diagnostic or evaluative statements, including forensic testimony, on information and techniques sufficient to substantiate their findings except when:

- (1) psychologists provide opinions of the psychological characteristics of individuals only after they have conducted an examination of the individuals adequate to support their statements or conclusions;
- (2) despite reasonable efforts, such an examination is not practical, psychologists document the efforts they made and the result of those efforts, clarify the probable impact of their limited information on the reliability and validity of their opinions and appropriately limit the nature and extent of their conclusions or recommendations; or
- (3) psychologists conduct a record review or provide consultation or supervision and an individual examination is not warranted or necessary for the opinion, psychologists explain this and the sources of information on which they based their conclusions and recommendations.

G. Maintenance and retention of records.

(1) The psychologist rendering professional services to a client or patient shall maintain professional records that include:

- (a) the presenting problem(s) or the reason the client(s) or patient(s) sought the psychologist's services;
- (b) diagnosis ~~[and/or]~~ and clinical formulation;
- (c) the fee arrangement;
- (d) the date and substance of each billed contact or service;
- (e) any test results or other evaluative results obtained and any basic test data from which they were derived;
- (f) notation and results of formal consultations with other providers;
- (g) a copy of all test or other evaluative reports prepared as part of the professional relationship;
- (h) the date of termination of services.

(2) The psychologist shall ensure that all data entries in the professional records are maintained for a period of not less than five years after the last date that service was rendered. The psychologist shall comply with other legal requirements for record retention, even if longer periods of retention are required for other purposes.

(3) The psychologist shall store and dispose of written, electronic, and other records in a manner that protects confidentiality.

(4) For each person professionally supervised, the psychologist shall maintain for a period of not less than five years after the last date of supervision a record of the supervisory session that shall include, among other information, the type, place, and general content of the session.

(5) Upon request by the client, patient, or legal representative of the client or patient, the psychologist shall release records under his control, except as otherwise provided in these rules and regulations or state law. Lack of payment for services does not constitute grounds for refusing to release client or patient records. [16.22.2.8 NMAC - Rp, 16.22.2.8 NMAC, 11/15/2006; A, 9/16/2010; A, 7/1/2018; A, 1/08/2023]

16.22.2.19 RESOLVING ETHICAL ISSUES:

A. Improper complaints. The psychologist shall not file or encourage the filing of ethics complaints to the board that are frivolous.

B. Familiarity with this code. The psychologist has an obligation to be familiar with the code, other applicable ethics codes, and their application to psychologists' work. Lack of awareness or misunderstanding of the code is not a defense to a charge of unethical conduct.

C. Confronting ethical issues. When a psychologist is uncertain whether a particular situation or course of action would violate this code, the psychologist shall consult with other psychologists knowledgeable about ethical issues, with state or national psychology ethics committees, or with other appropriate authorities in order to choose a proper course of action. Such consultation is not a defense to a charge of unethical conduct.

D. Mandatory reporting. If a psychologist has reason to believe that another psychologist is engaged in a prohibited dual relationship with a client or patient, exhibits habitual or excessive use of drugs and alcohol that adversely affect professional practice or commits fraud or gross incompetence, the psychologist must report the suspected violation to the board. The psychologist shall not violate patient confidentiality in order to make a report to the board regarding another psychologist's behavior. The psychologist may disclose such information without the patient's consent in urgent situations as described in Subsection C of 16.22.2.12 NMAC.

E. Cooperating with complaint and ethics committees. The psychologist shall cooperate in investigations, proceedings, and requirements of this code, the ethical principles of psychologists and code of conduct of the American psychologist association, or any affiliated state psychological association to which he belongs. In doing so, the psychologist shall make reasonable efforts to resolve any issues of confidentiality. Failure to cooperate is a separate violation of the code.

[16.22.2.19 NMAC - Rp, 16.22.2.19 NMAC, 11/15/2006; A, 1/08/2023]